IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 10TH JANUARY 2007 / 20TH PAUSHA 1928

WP(C).No. 34487 of 2006(E)

PETITIONER:

LIVINGSTON. A., S/O.ALFRED,
LIVING BHAVAN, CHEMMAKKAD P.O.,
PERINAD, KOLLAM.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY, HOME DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE SUPERINTENDENT OF POLICE, POLICE TELE COMMUNICATIONS, PATTOM, THIRUVANANTHAPURAM.

3. THE SECRETARY, PUBLIC SERVICE COMMISSION, PATTOM, THIRUVANANTHAPURAM.

BY GOVT.PLEADER SRI.BIJOY CHANDRAN
SRI.P.C.SASIDHARAN SC R3

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO.34487 of 2006

Dated this the 10th day of January, 2007

JUDGMENT

The petitioner finds a place in the ranked list published by the third respondent Commission for appointment to the post of Police Constable (Telecommunications). The list came into force on 22.9.2003. According to the petitioner, the list was kept alive for a period of three years and the vacancies reported to the Commission have been utilised for advising candidates for undergoing the training. It is contended that some of the advised candidates did not report for training and consequentially NJD vacancies have arisen. He hopes that if some more candidates were advised from the very same list , he is likely to be advised for training as Police Constable. According to the petitioner, the third respondent Commission has got a duty to keep the list alive beyond the maximum period of three years in view of the proviso to Rule 13 of the Kerala Public Service Commission Rules of Procedure. Rule 13 reads as follows:

> "The ranked lists published by the Commission shall remain in force for a period one year from the date on which it was brought into force provided that the said list will continue to be in force till the

publication of a new list after the expiry of the minimum period of one year or till the expiry of three years whichever is earlier.

Provided that the above rule shall not apply in respect of ranked lists of candidates for admission to Training course that leads to automatic appointment to Services or posts and that in such cases the Ranked Lists shall cease to be in force after one year from the date of finalisation of the Ranked Lists or after one month from the date of commencement of the course in respect of the last batch selected from the list within a period of one year from the date of finalisation of the ranked lists whichever is later.

4. Provided further that the provisions of the proviso above mentioned shall not be applicable for the selection for admission to the Forest Rangers Course and also for admission to the Diploma Course in Forestry for which selections have to be made annually in accordance with the instructions of the Government of India issued from time to time. For these selections, the Ranked Lists will be in force only for a period of three months from the date of finalisation of the Ranked Lists or one month from the date of commencement of the course whichever is later.

> Provided further that the Commission may take steps for the preparation of a new ranked list wherever necessary even before the expiry of the period of one year of the ranked list by inviting applications but that the ranked list prepared in pursuance of the said notification shall be brought into force only after the expiry of the period of one year of the existing ranked list."

2. According to the counsel for the petitioner, the ranked list will have to be kept alive for a period of one month from the date of commencement of the training course in respect of the last batch selected from the ranked list. This contention is raised on the supposition that the training course in respect of the last batch of candidates selected from the ranked list commenced their training within a period of one month from the date of finalisation of the ranked list and at any rate within one month from the date of reporting of the NJD vacancies against which the petitioner would stake his claim.

3. Counsel for the Commission submits that the interpretation sought to be placed on the first proviso to Rule 13 by the petitioner is not correct.

4. On an anxious consideration of the submissions made by counsel on either side, I find it difficult to agree with the contentions

raised on behalf of the petitioner. The first proviso to Rule 13 is not intended to enlarge the maximum period of the life of the list mentioned in the main part of the said rule. The first proviso pertains only to the ranked list of candidates who have to undergo training course which would automatically lead to appointments to services or posts. Under the main part of Rule 13, the ranked list will cease to be in force immediately on the expiry of one year unless the Commission decides to extend it for a period of three years, as may be notified, subject to the condition that a new rank list will not come into existence within that period. The true effect is that the proviso gives only a shorter life period to the ranked list than the maximum period of three years under the main part of Rule 13. It says that, in cases coming within the purview of the first proviso, the ranked list will cease to be in force after one year from the date of its finalisation or after one month from the date of commencement of the training course in respect of the last batch selected from that list within a period of one year from the date of finalisation of ranked list, whichever is later. Therefore, the maximum time that can be availed by a candidate taking advantage of the proviso is one month from the date of commencement of the course in respect of the last batch selected from the list subject to the condition that that last batch shall

be selected within a period of one year from the date of finalisation of the ranked list.

5. Therefore, applying the above principle to the facts of this case, the last batch referred to in the proviso ought to have been selected prior to 21.9.2004, on which date the ranked list will complete the period of one year referred to in the main part of Rule 13 as also in the proviso. The reliance placed by the petitioner on the above proviso will not advance the case of the petitioner. A strict application of the Ist proviso will lead to the finding that the ranked list cannot be operated beyond 21.10.2004. In fact, the Commission allowed the ranked list to be in force for a period of three years and it was in force till 21.9.2006. It is for this reason, learned counsel for the Commission submits that this is a case where the proviso was not applied and the Commission has acted in terms of the main part of Rule 13. The action thus taken by the Commission is advantageous to those included in the rank list. The contentions advanced by the petitioner will not improve his case. I am, therefore, of the view that the reliefs prayed for by the petitioner cannot be granted.

The writ petition fails. Dismissed.

K.K.DENESAN, JUDGE

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